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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,655	01/05/2006	J. Christopher Anderson	54A-000410US	3991
22798 7590 08/13/2009 QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C. P O BOX 458 ALAMEDA, CA 94501				
EXAMINER GEBREYESUS, KAGNEW H				
ART UNIT 1656		PAPER NUMBER		
MAIL DATE 08/13/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/563,655

Applicant(s)

ANDERSON ET AL.

Examiner

KAGNEW H. GEBREYESUS

Art Unit

1656

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 17-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/ANAND U DESAI/
Primary Examiner, Art Unit 1656

Continuation of 11, does NOT place the application in condition for allowance because: Applicant' states that because generic embodiments are added, the search for SEQ ID NO: 1 and 2 should be included. However these sequences are structurally distinct from the sequences originally presented and would pose an undue burden to the examiner. Furthermore claim 17 part (c) includes the limitation "at least about", this limitation is indefinite as the metes and bounds of this term are indefinite. Furthermore with regards to the written description rejection, Applicants argue that the limitation 50% suppressor efficiency to the O-tRNA of SEQ ID NO: 1, 2, 6, 7 and 12 and ORS of SEQ ID NO: 15 or 16. However although the method of elucidating suppressor efficiency for each species of O-tRNA/ORS pair can be used, Applicants are not in possession of the O-tRNA and ORS. Furthermore applicants argue that the limitation of 90% identity is sufficient to describe the genus of O-RS because it is accompanied by a functional limitation. However the specification does not describe any ORS structure with at least about 90% sequence identity to a leucyl O-RS derived from *M. thermoautotrophicum* with any structure and can aminoacylate an O-tRNA with any amino acid (not defined). With regards to the 102(e), regardless of the apparent clerical error, the rejection is sustained because the newly amended claims (e.g. claim 17 (b) and c) encompass O-tRNA sequences that are not defined thus are not compliant with the sequence rules. Furthermore with regards to the 102(e) rejection based on WO2002/086075, Applicants again point to an apparent clerical error with regards to the ORS of SEQ ID NO 65. They state that SEQ ID NO: 65 in WO2002/086075 was misquoted as SEQ ID NO: 66. However regardless of this apparent error Applicants point out that SEQ ID NO: 65 in WO2002/086075 is 100% identical to SEQ ID NO: 15 in the instant application. Therefore the rejection will be sustained.